

amounts that she determines are reasonable for services and items considered reasonable and necessary. All payment or reimbursement for medical services and items is secondary to any obligation of any third-party payer to pay for or provide such services or items to the requester. As provided in § 110.84, the Secretary retains the right to recover medical benefits paid by the Program to requesters if third-party payers are obligated to provide those benefits. Requesters are expected to make good faith efforts to pursue medical benefits and services from their primary payers. The Secretary reserves the right to disapprove medical benefits if the requester fails to do so.

(d) The Secretary may make payments of medical benefits or reimbursements of medical expenses described in this section to the estate of a deceased injured countermeasure recipient as long as such payments or expenses were accrued during the deceased injured countermeasure recipient's lifetime, or at the time of death, as the result of the covered injury or its health complications, and were not paid in full by the Program before the deceased injured countermeasure recipient died.

§ 110.32 Benefits for lost employment income.

(a) Requesters who are determined to be eligible for Program benefits as injured countermeasure recipients may be able to receive benefits for loss of employment income incurred as a result of a covered injury (or its health complications, as described in § 110.31(b)). Compensation for lost wages is paid as a percentage of the amount of employment income earned at the time of injury and lost as the result of the covered injury or its health complications. The period of time requested for lost employment income benefits must be supported by the severity of the covered injury as demonstrated by the medical and employment records.

(b) The method and amount of benefits for lost employment income are described in § 110.81. Benefits for lost employment income will be adjusted if there are fewer than ten days of lost employment income. Pursuant to law,

and as described in § 110.81, benefits provided for lost employment income may also be adjusted for annual and lifetime caps. Payment of benefits for lost employment income is secondary to any obligation of any third-party payer to pay for lost employment income or to provide disability or retirement benefits to the requester. It is the obligation of requesters to follow all specified procedures to apply for and acquire third-party benefits. The Secretary has the discretion to disapprove lost employment income benefits if the requester fails to do so. As provided in § 110.84, the Secretary reserves the right to recover lost employment income benefits paid by the Program to requesters if third-party payers are obligated to provide those benefits.

(c) The Secretary does not require an individual to use paid leave (*e.g.*, sick leave or vacation leave) for lost work days. However, if an individual uses paid leave for lost work days, the Secretary will not consider those days to be days of lost employment income unless the individual reimburses the employer for the paid leave taken and the employer restores the leave that was used. This puts the individual back in the same position as if he or she had not used paid leave for the lost work days.

(d) The Secretary may pay benefits for lost employment income to the estate of a deceased injured countermeasure recipient as long as such benefits were accrued during the deceased injured countermeasure recipient's lifetime as the result of a covered injury or its health complications, and were not paid in full by the Program before the deceased injured countermeasure recipient died. However, no such lost employment income may be paid after the receipt, by the survivor or survivors of a deceased injured countermeasure recipient, of death benefits under § 110.82.

§ 110.33 Death benefits.

(a) Eligible survivors may be able to receive a death benefit under this Program if the Secretary determines that an otherwise eligible countermeasure recipient sustained a covered injury and died as a direct result of the injury